

MAGISTRATE JUDGE STEVEN E. RAU
PRACTICE POINTERS AND PREFERENCES

Contact with Chambers

- Magistrate Judge Rau encourages you to contact his judicial assistant and courtroom deputy, Melissa Erstad, if you have any questions about his practice pointers and preferences. Please direct all questions to Ms. Erstad, not Magistrate Judge Rau's law clerks. If the Judge believes it is appropriate, the law clerks will initiate contact with the parties.
- To request a transcript of a hearing, please use the appropriate function in CM/ECF.
- When arranging for a telephone conference with Magistrate Judge Rau, the moving party should have all parties on one line before contacting chambers.
- Before calling chambers with a question, the Court encourages parties to review carefully all Orders and Notices filed and the Local Rules for the answer to their question.

Motion Scheduling

- When scheduling a motion, the parties should work together and inform the courtroom deputy of all motions pending in a particular case to ensure that they are all heard together. Also, if there are related cases with related motions, the parties should inform the calendar clerk of this fact.
- Parties must file dispositive motions before the deadline in the pretrial scheduling order.
- In patent cases, Magistrate Judge Rau uses a special pretrial scheduling order that sets the number of claim chart and briefing deadlines leading up to a *Markman* hearing. Also in patent cases, Judge Rau prefers to have a short tutorial about the technology at stake at the Rule 16 conference and so these conferences may take more time.
- When rescheduling a motion, it is helpful to have all parties on one the line so that a new date/time can be given that works for all parties.
- Before bringing a discovery motion, consider whether the issue can be resolved through an informal telephone conference with Magistrate Judge Rau.

Written Submissions

- Magistrate Judge Rau strictly follows the word count and format rules set forth in the Local Rules.
- Magistrate Judge Rau strongly discourages the use of procedural devices, such as filing a motion for each count of a complaint, in order to gain additional briefing space.

- If multiple exhibits are filed as one attachment, attach a separate exhibit index that identifies the page numbers of each exhibit.
- Please provide two courtesy copies of submissions (i.e., Motions, Memoranda, Responses, etc.) to chambers. Courtesy copies are expected to be received in chambers no later than the day after ECF filing. It is not necessary to provide copies of the certificates of service or certificates of word-count compliance.
- Magistrate Judge Rau prefers that the courtesy copies be organized, stapled, and delivered in two separate, complete and collated sets. Binders are not necessary.
- Obtain leave from the court prior to filing a brief exceeding the word count or page limits.
- Proposed orders should be e-mailed to the Judge's chambers' e-mail address and should be in Word format.
- When a deadline for a submission falls on a weekend, the submissions should be filed on the following Monday.
- Magistrate Judge Rau does not consider letter-writing campaigns to satisfy the letter and spirit of the meet-and-confer requirement of the Local Rules.
- Attorneys are expected to treat opposing counsel, parties, and the Court with respect, regardless of whether the form of communication is formal or informal, and regardless of whether the communication is written or oral.
- Magistrate Judge Rau takes the recent amendments to Rules 1 and 26 of the Federal Rules of Civil Procedure seriously and has the same expectation of counsel appearing before the Court.

In-Court Proceedings

- Judge Rau believes it is important for newer lawyers to gain experience arguing motions in the courtroom. In addition, he has observed that the lawyers who were most involved in preparing the written materials in support of the parties' respective positions are sometimes more knowledgeable about the underlying facts, circumstances, and law than the more senior lawyers who might otherwise be expected to argue. While the decision of who should argue a motion is ultimately that of counsel in consultation with the client, Judge Rau encourages the parties and their counsel to consider allowing a less-experienced attorney who was involved in the preparation of the motion papers to argue the motion in court. In addition, while Judge Rau does not generally permit a "tag team" approach to oral argument, he will permit counsel for a party to split oral argument on a motion if so doing provides an opportunity for a less-experienced attorney to gain oral argument experience.

- Stand at the podium and speak into the microphone when addressing the Court and counsel. Address the Court and opposing counsel with civility and formality. Direct your arguments to the Court, not to the law clerk or other court personnel.
- Magistrate Judge Rau has no preference as to who sits at any particular counsel table.
- Magistrate Judge Rau reads all written submissions in advance. Please keep this in mind when preparing your oral argument.
- If a party submits additional or new case law at oral argument, counsel must first furnish the additional case law to opposing counsel. Bring three additional copies of cases or any other handouts used in oral argument for the Court.
- Parties are encouraged to make use of courtroom technology during oral argument on motions and at trial. Please bring copies of any power points used during oral argument for opposing counsel and the Court. **Please become familiar with courtroom technology before using it. Training can be arranged through the courtroom deputy.**

Trial

- In jury trials, the parties must submit trial statements, exhibit lists, witness lists, deposition designations, motions *in limine*, proposed *voir dire* questions, and proposed jury instructions 10 days before trial. Responses to motions *in limine* are due 3 days before trial.
- Exhibits should be marked prior to trial and should correspond to the exhibit list.
- The court expects the parties to submit a joint proposed statement of the case that can be read to the jury during *voir dire*.
- The parties are required to meet and confer in advance of trial and then jointly submit to the court the proposed jury instructions on which they agree.
- Parties must include citations with proposed jury instructions.
- The parties should consider submitting preliminary instructions that will preview the substantive legal issues in the case.
- If videotaped depositions are to be used at trial, attorneys must confer and edit the tapes to get to the heart of the matter. Any dispute over use of videotape should be raised *in limine* prior to trial.

Settlement Conferences

- Parties should be prepared to spend the entire day at a settlement conference and be prepared to change travel plans if necessary.
- Parties are expected to be thoroughly familiar with the requirements for settlement conferences outlined in the Notice for Settlement Conference. Court approval must be sought for any deviation or exception.